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16		
17	NORTHERN DISTRICT OF CALIFORNIA OAKLAND DIVISION	
18	OAK	LAND DIVISION
19	STARDOCK SYSTEMS, INC.,	Case No.: 4:17-cv-07025-SBA
20	Plaintiff,	DECLARATION OF ROBERT A. WEIKERT IN SUPPORT OF STARDOCK SYSTEMS, INC.'S
21	vs.	OPPOSITION TO DEFENDANTS AND COUNTERCLAIMANTS' MOTION TO
22	PAUL REICHE III and ROBERT FREDERICK FORD,	DISMISS COUNTS TWELVE AND THIRTEEN OF STARDOCK'S THIRD AMENDED
23	Defendants.	COMPLAINT
24		_
25	AND RELATED COUNTERCLAIM	
26		_
27		
28	DECLARATION OF ROBERT A. WEIKERT IN SUPPORT OF STARDOCK SYSTEMS, INC.'S OPPOSITION TO DEFENDANTS AND COUNTERCLAIMANTS' MOTION TO DISMISS COUNTS TWELVE AND	
	THIRTEEN OF STARDO	OCK'S THIRD AMENDED COMPLAINT Cose No. 17 ev 07025 SPA

I, Robert A. Weikert declare:

- 1. I am a partner at Nixon Peabody LLP, counsel of record for Plaintiff Stardock Systems, Inc. ("Stardock"). I make this declaration in support of Stardock's Opposition to Defendants and Counterclaimants' Motion to Dismiss Counts Twelve and Thirteen of Stardock's Third Amended Complaint. Unless otherwise noted, I have personal knowledge of the following and, if called upon to do so, would and could testify competently to the same in a court of law.
- 2. Attached hereto as Exhibit A is a true and correct copy of an October 25, 2018 through October 26, 2018 email exchange between me and Tiffany S. Hansen, one of the attorneys of record for Defendants and Counterclaimants (hereinafter "Counterclaimants") in the above-captioned Action.
- 3. The parties to this dispute have entered into a stipulated protective order that permits either party to designate certain delineated, private and confidential documents produced as "Confidential" or "Attorneys' Eyes Only." Per the protective order, documents so designated are to be afforded agreed upon protections that precludes the use of the confidential or "AEO" documents from being filed in open court. In discovery, we identified an email chain that clearly demonstrated Counterclaimants' intent to interfere with Stardock's contractual relations and economic advantage. That communication was marked "AEO" when it was produced, although in our view, it did not qualify as confidential and subject to protection under the terms of the stipulated protective order. Therefore, on or about October 26, 2018, Dawn Valentine from our office wrote to Stephen C. Steinberg, one of Counterclaimants' attorneys, questioning why that email chain that had been produced by Counterclaimants in this Action was designated "Attorney's Eyes Only." After receiving no response, a follow up email was sent on October 31, 2018 to Tiffany S. Hansen requesting a response to the original October 26, 2018 email.
- 4. On November 7, 2018, Tiffany S. Hansen finally responded to the October 26, 2018 email. The response was not substantive, but instead requested that the parties meet and confer approximately three (3) weeks later during or following the Thanksgiving Holiday.

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DECLARATION OF ROBERT A. WEIKERT IN SUPPORT OF STARDOCK SYSTEMS, INC.'S OPPOSITION TO DEFENDANTS AND COUNTERCLAIMANTS' MOTION TO DISMISS COUNTS TWELVE AND THIRTEEN OF STARDOCK'S THIRD AMENDED COMPLAINT

Case No. 17-cv-07025-SBA

1	5. On November 8, 2018 we responded to Tiffany S. Hansen's email, stating that the	
2	requested meet and confer date was unacceptably late, and specifically requested that Defendants'	
3	agree to declassify the above mentioned email chain immediately, as there was no reason that the	
4	email chain should be protected under the AEO designation.	
5	6. Defendants and Counter-Claimants did not provide a substantive response, and on	
6	November 12, 2018 our office sent another email requesting that Defendants and Counter-	
7	Claimants either agree to declassify the email chain, or at the very least explain their reasoning	
8	behind the AEO designation.	
9	7. On November 12, 2018, Defendants and Counter-Claimants finally responded by	
10	refusing to remove the designation.	
11	8. Attached hereto as Exhibit B is a true and correct copy of a conversation pulled from a	
12	Star Control chatroom in which a customer discussed requesting a refund for their purchase of	
13	Stardock's Origins game (which were produced to Defendants and Counter-Claimants during	
14	discovery as Bates Number STAR000045).	
15	9. Attached hereto as Exhibit C is a true and correct copy of several requests for refunds	
16	from customers for their purchase of Stardock's Origins Game (which was produced to	
17	Defendants and Counter-Claimants during discovery as Bates Number STAR003142).	
18	10. At this point in time, discovery is ongoing, and no depositions have been taken.	
19	I declare under penalty of perjury under the laws of the United States and the State of	
20	California that the foregoing is true and correct.	
21	Executed this 13 th day of November 2018.	
22	/s/ Robert A. Weikert	
23	Robert A. Weikert	
24		
25		
26		
27	- 3 - DECLARATION OF ROBERT A. WEIKERT IN SUPPORT OF STARDOCK SYSTEMS, INC.'S OPPOSITION	
28	TO DEFENDANTS AND COUNTERCLAIMANTS' MOTION TO DISMISS COUNTS TWELVE AND	

THIRTEEN OF STARDOCK'S THIRD AMENDED COMPLAINT

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